20 HARV. L. REV. 652. If the goods have been shipped *bona fide* to a consignee in another state, and are then re-shipped by the consignee to another point within the state, such re-shipment is not a continuation of the interstate shipment. *Gulf, etc., Ry. Co.* v. *Texas*, 204 U. S. 403. But where the intrastate shipment is a mere subterfuge to benefit *pro tanto* by the reduced rates required by the state, the shipment is interstate. *State* v. *Gulf, etc., Ry. Co.*, 44 S. W. 542 (Tex.). There seems no reason why the rule in regard to freight should not be equally applicable to passenger traffic. In the present case, since A's ultimate destination was undoubtedly without the state and his attempt to purchase a ticket to Y a mere pretext to secure the reduced fare, he should be considered an interstate passenger.

LIMITATION OF ACTIONS — OPERATION AND EFFECT OF BAR BY LIMITATION — EFFECT ON CO-TENANT UNDER DISABILITY. — An elevated railroad ran for the period of the statute of limitations in front of land owned by five tenants in common, one of whom was under a disability. On suit by their grantee the railroad claimed a right by prescription. *Held*, that the plaintiff can recover only one-fifth of the total injury caused by the defendant. *Taggart* v. *Manhattan Ry.*, 38 N. Y. L. J. 1222 (N. Y., Sup. Ct., Dec. 1907).

The ordinary easement subjects the servient tenement to the dominant in such a way that it must necessarily exist against all those seised. Therefore one tenant in common cannot grant or reserve an easement valid against the others, since they have done nothing to subject their interests to a new burden. *Marshall* v. *Trumbull*, 28 Conn. 183; see *Clark* v. *Parker*, 106 Mass. 554. Similarly no easement should ordinarily be acquired upon the termination of the statutory period of limitations, if one co-tenant is under a disability. See *Watkins* v. *Peck*, 13 N. H. 360, 376. In the case of adverse possession, however, since the substitution of the possessor for the tenants not under disabilities cannot affect the interest in the whole land, of the tenant under a disability, the claims of the former should be barred. See *Bryan* v. *Hinman*, 5 Day (Conn.) 211; 10 HARV. L. REV. 384. The plaintiff's claim in the present case is for damages only; for the defendant's right of eminent domain makes it impossible to prevent the ultimate acquisition of the easement. Such a claim is clearly severable and is properly barred as to four-fifths, since the fifth interest derived from the co-tenant who was under a disability is not prejudiced thereby.

MANDAMUS — ACTS SUBJECT TO MANDAMUS — STATE'S ATTORNEY COMPELLED TO BRING QUO WARRANTO. — An Illinois statute provided "that the state's attorney, either of his own motion or at the instance of a private individual, may petition the court for leave to file an information in the nature of a *quo warranto*" against any one who should usurp any public office or any office in a corporation. The relator presented to the state's attorney a petition for an information in the nature of a *quo warranto* against one Brand, and filed affidavits making out a *prima facie* case that Brand was unlawfully usurping an office in a private corporation of which the relator was a director. The state's attorney refused to sign and file the petition. *Held*, that *mandamus* lies to compel him to do so. *People ex rel. Raster* v. *Healy*, 82 N. E. 599 (Ill.).

It is a fundamental rule that *mandamus* will not lie to compel the performance of duties resting in the discretion of the officer charged therewith. *People* v. *Dental Examiners*, 110 Ill. 180. It has been held in several jurisdictions, however, that the courts will interfere by *mandamus* in cases where an official has abused his discretion. *State* v. *St. Louis Public Schools*, 134 Mo. 296. Generally, under statutes similar to that of Illinois, the courts will not compel a prosecuting attorney to bring *quo warranto* proceedings to oust a public officer. *People* v. *Atty.-Gen.*, 22 Barb. (N. Y.) 114. The present decision properly distinguishes between the discretion that may be exercised by the state's attorney in such cases and that which may be used when the writ is directed against an officer of a private corporation. In the former case public policy requires substantial discretion to prevent unnecessary interference with public officials. In the latter case, since action by the state's attorney in no way affects the interest of the public, it is an abuse of his discretion if he refuses to proceed when a *prima facie* case is presented to him.